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PATENT APPLICATION

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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ATTORNEY DOCKET NO. HP10005868-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Marc P. Schuyler

Confirmation No.: 1881

Application No.: 09/703,459

Examiner: Jean D. Janvier

Filing Date: October 31, 2000

Group Art Unit: 3622

Title: METHOD FOR TARGETING PROMOTIONS TO INDIVIDUAL ASSOCIATED WITH A VEHICLE

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 1/27/2005 and, in response to the Notification of Non-Compliant Appeal Brief dated 9/25/06.
The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.
(Previously paid) (complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month
\$120

☐ 2nd Month
\$450

☐ 3rd Month
\$1020

☐ 4th Month
\$1590

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of _____ At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

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Rev 10/06a (AplBrief)

Respectfully submitted,

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Docket No. HP 10005868-1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Marc P. Schuyler

Application No.: 09/703,459

Filed: October 31, 2000

For: METHOD FOR TARGETING
PROMOTIONS TO INDIVIDUAL
ASSOCIATED WITH A VEHICLE

Examiner: Jean D. Janvier

Group Art Unit: 3622

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RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF
PURSUANT TO 37 CFR § 41.37

In response to the Notification of Non-Compliant Appeal Brief dated September 25, 2006, Appellant submits this amended Appeal Brief.

Appellant appeals the decision of the Examiner finally rejecting all of the claims pending in the present application, namely claims 1-11. Appellant's Notice of Appeal was filed on January 27, 2005. The fee required under 37 CFR § 41.20(b)(2) was previously submitted.

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I. REAL PARTY IN INTEREST

Hewlett-Packard Company is the real party in interest in the subject application, by virtue of an assignment from the inventor Marc P. Schuyler to Hewlett-Packard Company (recorded on July 9, 2001 at reel 011968, frame 0121).

II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are currently known that will directly affect, be directly affected by, or have a bearing on the decision to be rendered by the Board of Patent Appeals and Interferences in the present appeal.

III. STATUS OF CLAIMS

Claims 1-11 are pending in the application.

Claims 1-11 stand rejected under 35 U.S.C. §103(a). Each rejected claim is being appealed.

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection in this matter.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a method of targeting promotions to an individual in a vehicle, where the vehicle includes an on-board system having sensors from which a maintenance event can be detected (see specification, page 3, lines 30-34). The method includes detecting a vehicle maintenance event by digitally interrogating the on-board system and identifying whether the vehicle maintenance condition meets predetermined maintenance criteria (see specification, page 3, line 34 to page 4, line 3). If a maintenance event is detected, an identification of that event is wirelessly transmitted to a remote computer, i.e. at

the nearest vehicle dealership (see specification, page 4, lines 3-5). The method includes generating a promotion associated with the vehicle maintenance event and providing the promotion to the individual associated with the particular vehicle having the maintenance event (see specification, page 4, lines 5-8). To help target the promotion, the dealership receiving the vehicle identification and vehicle maintenance event information stores data of an association between the individual and the particular vehicle (e.g., in a computer database, indexed by vehicle identification number) and uses the vehicle identification to associate the vehicle maintenance event with the individual and routes the promotion to the individual (see specification, page 4, lines 8-17).

Dependent claim 3 recites wherein generating a promotion includes obtaining service discount coupon permissions for a plurality of service providers, across multiple geographies (see specification, page 21, lines 1-10). Dependent claim 3 also recites filtering the service providers based on type of vehicle maintenance service and geographic vicinity to the individual (see specification, page 21, lines 1-35) and generating and transmitting at least one coupon to an address associated with the individual in response to the filtering (see specification, page 21, lines 1-35).

Dependent claim 7 recites wherein the vehicle has an on-board computer system and a vehicle user display screen (see specification, page 7, lines 15-28) and sending the promotion to the individual includes sending an electronic message to the on-board computer system for the vehicle which causes the computer system to visually display the promotion for the user (see specification, page 4, lines 8-17 and page 22, lines 8-11).

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-6 and 8-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mezger et al. (U.S. Patent No. 5,781,871) in view of Scroggie et al. (WO 97/23838).
2. Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Mezger et al. (U.S. Patent No. 5,781,871) in view of Park (U.S. Patent No. 5,627,549).

VII. ARGUMENT**REFERENCES CITED BY THE EXAMINER ARE NOT RELATED**

Mezger et al. (U.S. Patent No. 5,781,871, hereinafter "Mezger") relates to vehicle diagnostics. Mezger allows the programming of diagnostic threshold values of a vehicle for more accurate monitoring of the vehicle. (See col. 2, lines 7-12). For an electronic computing unit for a vehicle, it is advantageous if it has a means for subsequently programming in newly established diagnostic threshold values. (See col. 2, lines 44-46). If it is found subsequently that the original diagnostic threshold values are incorrectly set, faulty operation of the control device can be avoided by replacing these diagnostic threshold values. (See col. 2, lines 46-50). Vehicles in which faulty operation has been established can then be called into the workshop for inspection by a corresponding circuit. (See col. 2, lines 38-40).

Scroggie et al. (WO 97/23838, hereinafter "Scroggie") relates to shopping aids and incentives to customers. An important element of Scroggie is that it permits the customer to plan his or her shopping and shopping-related activities more efficiently. (See page 2, lines 16-17). Scroggie is only concerned with a customer selecting a retailer over the Internet, and

then having the retailer transmit a purchase incentive offer to the customer. (See page 2, lines 9-13 and page 4, lines 27-30).

Park (U.S. Patent No. 5,627,549, hereinafter "Park") relates to radio broadcasting voice signals. Park focuses on providing detailed information associated with an associated voice advertisement broadcast in voice broadcast 22. (See col. 4, line 67 to col. 5, line 2). That is, when a user hears an advertisement of interest, the user may push an information button 102f to display the advertiser's name, address and phone number. (See col. 6, lines 41-47 and col. 8, lines 34-37). Park is only concerned with displaying the advertiser's name, address and phone number.

The Examiner is improperly combining references that are not related. For example, the Examiner is improperly combining shopping aids and incentives with vehicle diagnostics and radio broadcast voice signals with vehicle diagnostics. The Examiner is improperly using applicant's claims as a roadmap to select random statements from each reference in an attempt to achieve applicant's invention.

§103(a) REJECTION OF CLAIMS 1-2, 4-6 AND 8-11 OVER MEZGER IN VIEW OF SCROGGIE

The Examiner rejected claims 1-2, 4-6 and 8-11 as being unpatentable under 35 U.S.C. §103(a) over Mezger in view of Scroggie.

To establish a prima facie case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. (MPEP §2143; *see In re Thrift*, 298

F.3d 1357, 1363 (Fed. Cir. 2002)). Finally, there must be a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. (MPEP §2143 citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

In this instance, the Examiner failed to satisfy at least the first and second criteria for all of the rejected claims.

A. References Fail to Teach or Suggest All the Claim Limitations

Claim 1 recites: "A method of targeting promotions to an individual associated with a vehicle, where the vehicle includes an on-board system including vehicle sensors from which a maintenance event can be detected, the method comprising:

detecting a vehicle maintenance event, including

digitally interrogating the on-board system of the vehicle,

detecting when the vehicle maintenance condition meets predetermined maintenance criteria, and

transmitting wirelessly to a remote computer an identification that the particular vehicle has met the predetermined maintenance criteria;

generating a promotion associated with the vehicle maintenance event; and

providing the promotion to the individual associated with the particular vehicle, including

using an association between the individual and the particular vehicle to associate the vehicle maintenance event with the individual, and

sending the promotion to the individual." (Emphasis Added).

Applicant asserts that the claim limitation "generating a promotion associated with the vehicle maintenance event" is not taught or suggested by any of the references of record.

When examining claims for patentability, claims are interpreted as broadly as is reasonable and consistent with the specification. (See, e.g., *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000)). Therefore, the term "vehicle maintenance event" in claim 1 should be construed to mean "an event that triggers the need for vehicle maintenance." This definition is consistent with the specification, which states, for example, that a vehicle maintenance event may be when oil degradation falls below a predetermined threshold. (See specification, page 12, lines 3-6). Table I in the specification also provides some examples of vehicles maintenance events. (See specification, pages 17 and 18).

The Examiner admits that Mezger does not expressly disclose "generating a promotion related to the maintenance event or the detection of a faulty operation in vehicle 11." (See page 6 of the Final Office Action). The Examiner admits that Mezger does not expressly disclose "the promotion represents at least one discount coupon, redeemable on the maintenance event or faulty operation, from a local service provider or workshop operator, capable of fixing the faulty operation or defect, servicing a geographic location proximate to the vehicle 11 owner's residence."

The Examiner resorts to Scroggie, alleging that Scroggie discloses "an incentive distribution network or system for providing from a plurality of providers purchase incentive offers, such as electronic coupons, recipes, rebates, shopping aids, product samples, supermarket specials, etc. to qualified customers over the Internet or communications network." (See page 6 of the Final Office Action). Not only is there no suggestion for combining Scroggie with Mezger, even if the combination was proper, the invention of claim 1 is not taught or suggested by the combination.

Scroggie focuses on purchase incentive offers without any reference to a vehicle or a vehicle maintenance event. Scroggie does not contemplate generating purchase incentive

offers associated with a vehicle maintenance event. In fact, Scroggie does not even mention vehicle, car, automobile, truck, maintenance or repair. Scroggie is only concerned with a customer selecting a retailer over the Internet, and then having the retailer transmit a purchase incentive offer to the customer. (See Scroggie, page 2, lines 9-13 and page 4, lines 27-30). The customer must select the retailer before receiving the purchase incentive offer. Scroggie requires an action (i.e., a selection) by the customer before a purchase incentive offer is generated. Scroggie fails to teach or suggest that the purchase incentive offers are generated in response to a vehicle maintenance event as recited in the claims.

By contrast, Applicant's invention automatically and electronically generates a promotion associated with a vehicle maintenance event after detecting a vehicle maintenance event. Once the promotion is generated, the promotion is automatically and electronically sent to the customer (e.g., visually displaying the promotion for the customer in the vehicle — claim 7). The customer does not have to select the retailer to receive a promotion as disclosed in Scroggie. Hence, the Examiner improperly asserts that the deficiency in Mezger is remedied by Scroggie. Mezger and Scroggie, taken individually, or in combination, fail to disclose, teach or suggest all of the limitations of claim 1. Therefore, claim 1 is patentable over the cited references.

B. No Suggestion or Motivation to Combine the References Exists in the Record

The Examiner contends that it would have been obvious to a person of ordinary skill in the art to incorporate the incentive distribution system of Scroggie into the vehicle diagnostic system of Mezger. (See page 10 of the Final Office Action).

To establish a *prima facie* case of obviousness, the Examiner must, *inter alia*, show some objective teaching in the prior art or that knowledge generally available to a person of

ordinary skill in the art would lead that individual to combine the relevant teachings of the references. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of a person of ordinary skill in the art, or, in some cases the nature of the problem to be solved. *In re Kotzab*, 217 F.3d 1365, 1369, 55 USPQ2d 1313, 1316 (Fed. Cir. 2000). The Examiner has failed to provide any statement, basis or reasoning in the art to combine the references.

No explicit statement appears in either reference that would teach or suggest to a person of ordinary skill in the art to combine the references. Mezger does not mention "promotion or incentive" but rather specifically focuses on vehicle diagnostics. Mezger is specifically directed to avoiding the erroneous establishment of diagnostic thresholds. (See col. 1, lines 57-59). No statement in Mezger would lead a person of ordinary skill in the art to be concerned with purchase incentive offers. Scroggie, on the other hand, does not mention "vehicle or vehicle maintenance event." Scroggie focuses on Internet retail purchase incentive offers. No statement in Scroggie would lead a person of ordinary skill in the art to be concerned with vehicle diagnostics. Therefore, no statement in either Mezger or Scroggie would lead a person of ordinary skill in the art to make the combination suggested by the Examiner. The combination of these two references is merely one of convenience for the Examiner.

A person of ordinary skill in the art would not combine these references because each reference seeks to solve different unrelated problems. Mezger relates to vehicle diagnostics. Mezger seeks to solve the problem of accurately setting diagnostic threshold values. (See col. 1, lines 31-41). For example, if diagnostic threshold values are set too close together, then improper error messages are sent to the driver. On the other hand, if diagnostic

threshold values are set too far apart, then undetected faulty operations can occur. Mezger's invention avoids the erroneous establishment of diagnostic thresholds. (See col. 1, lines 57-59).

Scroggie relates to Internet retail purchase incentive offers. Scroggie seeks to solve the problem of providing retailers with online shopping services. (See page 1, lines 17-23). Scroggie states that "the full potential of online delivery of incentives has not been realized prior to the present invention." (See page 1, lines 22-23). "Importantly, the incentives are distributed in such a way that they may be redeemed only at a specific retailer selected by each customer." (See page 1, lines 29-30). Furthermore, Scroggie states that "an important element of the invention is that it permits the customer to plan his or her shopping and shopping-related activities more efficiently." (See page 2, lines 16-17). Hence, Mezger and Scroggie each seek to solve different unrelated problems. A person of ordinary skill in the vehicle diagnostics art would not search for solutions in the Internet retail purchase art, nor could the Internet technology be used to perform the functions in a vehicle as recited in the claims. The Examiner has used hindsight to combine these references. Obviousness cannot be established by hindsight combination to produce the claimed invention. *In re Gorman*, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). It is the prior art itself and not applicant's achievement that must establish the obviousness of the combination. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985).

§103(a) REJECTION OF CLAIM 3 OVER MEZGER IN VIEW OF SCROGGIE

The Examiner rejected claim 3 as being unpatentable under 35 U.S.C. §103(a) over Mezger in view of Scroggie.

Claim 3 recites: "A method according to claim 1, wherein generating a promotion includes:

obtaining service discount coupon permissions for a plurality of service providers, across multiple geographies;

filtering the service providers based on type of vehicle maintenance service and geographic vicinity to the individual; and

generating and transmitting at least one coupon to an address associated with the individual in response to the filtering.” (Emphasis Added).

Applicant asserts that the claim limitation “filtering the service providers based on type of vehicle maintenance service and geographic vicinity to the individual” is not taught or suggested by any of the references of record.

The Examiner admits that Mezger does not expressly disclose the features recited in claim 3.” (See page 6 of the Final Office Action).

The Examiner resorts to Scroggie, alleging that Scroggie discloses “the customer logs into the system and fills out a registration form where he provides his demographic information including geographical location having a specific zip code and other postal code since the features of the present system are location-dependent. If it is determined by the system that the submitted zip code is a valid zip code, that is a zip associated with a retail store where an electronic coupon can be redeemed, then the system allows the customer to proceed to the main menu and browse among available purchase incentive offers.” (See pages 6 and 7 of the Final Office Action). Not only is there no suggestion for combining Scroggie with Mezger, even if the combination was proper, the invention of claim 3 is not taught or suggested by the combination.

Claim 3 is directed toward automatically and electronically filtering the service providers based on type of vehicle maintenance service and geographic vicinity to the individual.

Scroggie focuses on a customer logging into a computer, inputting a postal code and retail store selection, and receiving a plurality of incentive offers based on the customer's postal code. (See page 4, lines 3-12). Scroggie does not contemplate filtering the service providers based on type of vehicle maintenance service. Scroggie is only concerned with the customer selecting the desired retail stores and receiving offers from only these stores. The customer must first select the retail store before viewing the offer. Once the offer is received, the customer may find the offer not relevant to the customer's needs.

By contrast, claim 3 is directed toward automatically filtering the service providers based on the vehicle maintenance service, which has been previously determined. If the service provider cannot offer the service, the service provider is not listed. Therefore, the customer only receives promotions that pertain to the vehicle maintenance service. Scroggie fails to teach or suggest filtering the service providers based on type of vehicle maintenance service and geographic vicinity to the individual as recited in claim 3. Hence, the Examiner improperly asserts that the deficiency in Mezger is remedied by Scroggie. Mezger and Scroggie, taken individually, or in combination, fail to disclose, teach or suggest all of the limitations of claim 3. Therefore, claim 3 is patentable over the cited references.

§103(a) REJECTION OF CLAIM 7 OVER MEZGER IN VIEW OF PARK

The Examiner rejected claim 7 as being unpatentable under 35 U.S.C. §103(a) over Mezger in view of Park.

Claim 7 recites: "A method according to claim 1, wherein:
the vehicle has an on-board computer system and a vehicle user display screen; and
sending the promotion to the individual includes sending an electronic message to the on-board computer system for the vehicle which causes the computer system to visually display the promotion for the user." (Emphasis Added).

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Applicant asserts that the claim limitation "visually display the promotion for the user" is not taught or suggested by any of the references of record.

The Examiner admits that Mezger does not expressly disclose "the presence of a screen or display coupled to the vehicle's 11 onboard computer system 20 for displaying a transmitted promotion or advertisement to the individual or the driver of the vehicle 11." (See page 12 of the Final Office Action).

The Examiner resorts to Park, alleging that Park discloses "a system wherein a user or operator of mobile vehicles 10 can interact with an advertisement or promotional message aired and transmitted by pressing the where button 102(f) in the front panel of information device 40." (See pages 12 and 13 of the Final Office Action). Not only is there no suggestion for combining Park with Mezger, even if the combination was proper, the invention of claim 7 is not taught or suggested by the combination.

Park focuses on providing detailed information associated with an associated voice advertisement broadcast in voice broadcast 22. (See col. 4, line 67 to col. 5, line 2). That is, when a user hears an advertisement of interest, the user may push an information button 102f to display the advertiser's name, address and phone number. (See col. 6, lines 41-47 and col. 8, lines 34-37). Park does not contemplate visually displaying the promotion associated with the vehicle maintenance event. Park does not display the promotion but rather is only concerned with displaying the advertiser's name, address and phone number. Furthermore, Park does not automatically visually display the promotion but rather requires the user to push an information button 102f to activate the display. Park fails to teach or suggest that the promotion associated with the vehicle maintenance event is visually displayed for the user as recited in claim 7. The Examiner improperly asserts that the deficiency in Mezger is remedied by Park. Mezger and Park, taken individually, or in combination, fail to disclose,

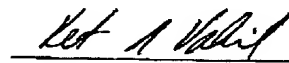
teach or suggest all of the limitations of claim 7. Therefore, claim 7 is patentable over the cited references.

The Examiner fails to establish a prima facie case of obviousness for any of the rejected claims 1-11. This appeal should be granted and claims 1-11 should be allowed.

Respectfully submitted,

SNELL & WILMER L.L.P.

Dated: Oct. 24, 2006



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VIII. CLAIMS APPENDIX

1. A method of targeting promotions to an individual associated with a vehicle, where the vehicle includes an on-board system including vehicle sensors from which a maintenance event can be detected, said method comprising:

detecting a vehicle maintenance event, including

digitally interrogating the on-board system of the vehicle,

detecting when the vehicle maintenance condition meets predetermined maintenance criteria, and

transmitting wirelessly to a remote computer an identification that the particular vehicle has met the predetermined maintenance criteria;

generating a promotion associated with the vehicle maintenance event; and

providing the promotion to the individual associated with the particular vehicle, including

using an association between the individual and the particular vehicle to associate the vehicle maintenance event with the individual, and

sending the promotion to the individual.

2. A method according to claim 1, wherein:

interrogating the on-board system includes providing a vehicle having an on-board digital system having instructions stored therein operative to cause the digital system to unsolicitedly detect occurrence of the maintenance event; and

said instructions further cause the on-board digital system and a wireless transmitter associated with the vehicle to unsolicitedly contact the remote computer and send the identification to the computer.

3. A method according to claim 1, wherein generating a promotion includes:
obtaining service discount coupon permissions for a plurality of service providers,
across multiple geographies;
filtering the service providers based on type of vehicle maintenance service and
geographic vicinity to the individual; and
generating and transmitting at least one coupon to an address associated with the
individual in response to the filtering.
4. A method according to claim 1, wherein generating a promotion includes:
generating a discount coupon for a product that is complimentary to the vehicle
maintenance event; and
transmitting the coupon to an address associated with the individual.
5. A method according to claim 1, wherein generating a promotion includes:
generating a discount coupon for a service that is complimentary to a service for the
vehicle maintenance event; and
transmitting the coupon to an address associated with the individual.
6. A method according to claim 1, wherein:
transmitting to a remote computer includes transmitting the identification to a delegee
of a vehicle manufacturer or dealer; and
generating a promotion includes use of the identification by the delegee to generate a
notification that a particular vehicle maintenance event has been reached, and mailing that
notification to the individual pursuant to a vehicle sales promotion.

7. A method according to claim 1, wherein:
the vehicle has an on-board computer system and a vehicle user display screen; and
sending the promotion to the individual includes sending an electronic message to the on-board computer system for the vehicle which causes the computer system to visually display the promotion for the user.
8. A method according to claim 1, wherein:
using an association includes storing contact information for the individual, including an email address associated with the individual; and
sending the promotion to the individual includes sending an electronic message to the user's email address.
9. A method according to claim 1, wherein generating a promotion includes:
generating a discount coupon for a product that is complimentary to a service for the vehicle maintenance event; and
transmitting the coupon to an address associated with the individual.
10. A method according to claim 1, wherein using an association includes:
collecting, at the time of vehicle purchase, a contact address for a vehicle purchaser, and storing the contact address in an electronic database.
11. A method according to claim 1, wherein using the association includes:
storing a vehicle identification number on-board the vehicle;
upon detection of a maintenance event, transmitting the vehicle identification number together with the identification sent to the remote computer; and

associating contact information for the individual with a particular maintenance event
using the vehicle identification number.

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IX. EVIDENCE APPENDIX

No evidence to be submitted.

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X. RELATED PROCEEDINGS APPENDIX

No related proceedings.